

## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. APPLICATION NO. FILING DATE 4343 10/710,625 07/26/2004 Nicholas J. Cusick 34625 EXAMINER 23589 7590 01/10/2006 CHAMBERS, MICHAEL S **HOVEY WILLIAMS LLP** 2405 GRAND BLVD., SUITE 400 PAPER NUMBER ART UNIT KANSAS CITY, MO 64108 3711

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Action Summary	10/710,625	CUSICK, NICHOLAS J.	
	Examiner	Art Unit	
	Mike Chambers	3711	
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).			
Status			
1) Responsive to communication(s) filed on 25 Fe	ebruary 2005.		
2a) This action is <b>FINAL</b> . 2b) This action is non-final.			
3) Since this application is in condition for allowar	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is		
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) Claim(s) 1-58 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) 1-58 are subject to restriction and/or election requirement.			
Application Papers			
<ul> <li>9) The specification is objected to by the Examiner.</li> <li>10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</li> <li>11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</li> </ul>			
Priority under 35 U.S.C. § 119			
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>			
Attachment(s)			
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal Pa		

Application/Control Number: 10/710,625

Art Unit: 3711

## DETAILED ACTION

Page 2

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Claims 1- 44 are drawn to soccer pads, classified in class 473, subclass
 478.

II Claims 45-58 are drawn to a method of making soccer pads, classified in class 473, subclass 476.

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). The product could be made by means other than molding as for example cutting and gluing a support pad. And the method could be used to form pipe insulation.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

If applicant elects Group I, the following species restriction is also applied:

This application contains claims directed to the following patentably distinct species of the claimed invention:

Application/Control Number: 10/710,625

Art Unit: 3711

Group III- Soccer goal padding as shown in Fig 1.

Group IV- Soccer goal padding as shown in Fig 5.

Group V- Soccer goal padding as shown in Fig 6.

Group VI- Soccer goal padding as shown in Fig 7.

Group VII- Soccer goal padding as shown in Fig 8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

Application/Control Number: 10/710,625

Art Unit: 3711

 $\underline{\text{case.}}$  In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35

U.S.C. 103(a) of the other invention.

Applicant's representative Andrew Colombo was contacted by phone on January

4, 2006. Applicant's representative has chosen not to elect at this time

which resulted in the mailing of this Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is (571) 272-

4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Michael Chambers

Examiner

Art Unit 3711

January 4, 2006

EUGENE KIM BUPERVISORY PATENT EXAMINER

Page 4